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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES MICHAEL BIELA,

Petitioner,

V.

WILLIAM GITTERE, Warden, Ely State  
Prison, and AARON D. FORD, Attorney  
General of the State of Nevada,

## Respondents.

Case No. 3:20-cv-00026-GMN-WGC

**STIPULATION AND ORDER TO  
ALLOW PETITIONER TO FILE A  
SECOND AMENDED PETITION**

## DEATH PENALTY CASE

## **STIPULATION**

Petitioner James Biela, through counsel Heather Fraley, Assistant Federal Public Defender, and Respondent William Gittere, et al, through counsel Heather Procter, Chief Deputy Attorney General, hereby stipulate as follows:

Mr. Biela will file a protective first amended petition on or before November 10, 2020. Mr. Biela acknowledges that it is his responsibility to calculate the statute of limitations. Mr. Biela will have until July 1, 2021 to file a second amended petition. It is not necessary for the Respondents to file an answer or motion to dismiss the first-amended petition until after the second amended petition is filed, unless otherwise ordered by the Court. The Respondents do not, by stipulating to the filing of a second amended petition, intend to waive any procedural defenses. By agreeing to this procedure, Respondents do not concede that Mr. Biela's first-amended petition is timely if filed by November 10, 2020.

DATED this 23rd day of November 2020

RENE L. VALLADARES  
Federal Public Defender

AARON FORD  
Nevada Attorney General

/s/ Heather Fraley  
HEATHER FRALEY  
Assistant Federal Public Defender

*/s/ Heather Procter*  
HEATHER PROCTER  
Chief Deputy Attorney General

IT IS SO ORDERED

## U.S. District Judge Gloria Navarro

DATED November 23, 2020